

Serial: 204813

IN THE COURT OF APPEALS OF THE STATE OF MISSISSIPPI

No. 2015-CP-01137-COA

WENDELL HAYES

FILED

Appellant

v.

APR 18 2016

STATE OF MISSISSIPPI

OFFICE OF THE CLERK
SUPREME COURT
COURT OF APPEALS

Appellee

ORDER

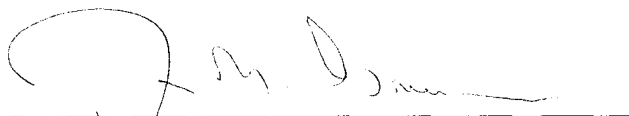
This matter comes before the Court on the State's motion to reset the briefing schedule. It appears that the State's motion is prompted by the fact that the docket indicates that Appellant Wendell Hayes's pro se brief was filed on February 3, 2016 – the date listed in Hayes's certificate of service. But the clerk did not actually receive Hayes's brief until February 18, 2016. According to the State, it also received Hayes's brief on that date. The next day, the clerk's office issued notice that it had received Hayes's brief. The State reasons that the deadline for its responsive brief should be March 21, 2016. The State filed its brief on March 16, 2016.

Rule 25(a) of the Mississippi Rules of Appellate Procedure states that "briefs . . . shall be deemed filed on the day of mailing" As stated above, Hayes's certificate of service reflects that he mailed copies of his brief on February 3, 2016. The State's claim that it received Hayes's brief on February 18, 2016, is consistent with the date the clerk actually received Hayes's brief. Based on the discrepancy between the date on Hayes's certificate of service and the date that the brief was received, it is likely that Hayes's brief was not actually

mailed on February 3, 2016. Even if it had been, it would be unreasonable to hold the State to a deadline of which it could not possibly be aware. That would effectively cut the State's response time in half. The Court finds that the State's deadline began on February 18, 2016. Rule 30(b) of the Mississippi Rules of Civil Procedure provides that the appellee's brief is due within thirty days "after service" of the appellant's brief. Without requesting an extension, the State filed its brief well before the deadline expired on March 21, 2016. *See* M.R.A.P. 26(a). Because the State timely filed its responsive brief, there is no need to reset the briefing schedule.

THEREFORE, the State's motion to reset the briefing schedule is dismissed as moot. The State's responsive brief shall be accepted as timely.

SO ORDERED, this the 15th day of April, 2016.



JIM M. GREENLEE, JUDGE